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Written statement* submitted by the World Evangelical Alliance, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Written statement to the Universal Periodic Review

Freedom of religion or belief in Sri Lanka and the importance of ensuring an international investigation into issues of accountability during the final stages of the civil war

Introduction

Sri Lanka is a multi-ethnic, multi-religious, multilingual and multicultural country, which is emerging from a 30-year internal armed conflict that ended in 2009.

At Sri Lanka's most recent Universal Periodic Review on 1 November 2012, three recommendations put forward by the Holy See,[1] Italy,[2] and Spain[3] on promoting freedom of religion enjoyed the support of the government of Sri Lanka.[4]

In 2013, then UN High Commissioner for Human Rights, Navanethem Pillay, called for an international investigation into issues of accountability carried out in the final stages of the Sri Lankan civil war.[5]

This written submission focuses in particular on the freedom of religion or belief (FoRB) and also, specifically, on the importance of carrying out an independent and credible international investigation on issues of accountability during the final stages of the conflict.

FORB IN SRI LANKA

Constitutional and Legislative Framework governing FoRB

1. Article 9 of the Sri Lankan Constitution accords Buddhism "the foremost place" and makes it "the duty of State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e)", granting Buddhism which is the majority religion special protected status and state patronage.

2. Article 10 guarantees that "every person is entitled to the freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice." Article 14(1)(e) guarantees that, "Every citizen is entitled to the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice or teaching". However, in Supreme Court Determination No. 2/2001, it was stated that this "does not guarantee a fundamental right to 'propagate' religion as in Article 25(1) of the Indian Constitution."[6]

3. Article 12 of the Constitution guarantees equality before the law and stipulates that no citizen shall be discriminated against on the grounds of race, religion, language, cast, sex, political opinion, place of birth or any one of such grounds.

International obligations

Sri Lanka is a state party to several international human rights treaties.

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[1] Recommendation 127.56
[2] Recommendation 127.57
[3] Recommendation 128.91
[4] Report of the Working Group on the Universal Periodic Review, Sri Lanka, A/HRC/22/16
[5] Report of the OHCHR, A/HRC/22/38
[6] S.C. Special Determination No. 19/2003, accessed via http://www.refworld.org/pdfid/4be3e7042.pdf

Among others, Sri Lanka has acceded to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of Racial Discrimination (ICERD) and the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and has ratified the Convention on the Elimination of Discrimination against Women (CEDAW).

FoRB related issues

1. **Violence and intimidation**

A significant increase in the number of incidents against religious minorities was seen since 2012 with the emergence of Buddhist extremist groups such as the Bodu Bala Sena which led numerous attacks against Christians and Muslims in the country. For instance, a record high 103 incidents of persecution, discrimination and intimidation were recorded against Christians in 2013.[7] This was an almost 100% increase from 2012's 52 incidents. In 2014, 111 incidents were recorded against Christians.[8]

Types of incidents recorded against Christians include; arson attacks on churches, demolition of churches, damage to property, physical assault of clergy and church members causing serious injury, death threats, intimidation, discrimination, forced displacement and forced closure of churches.

According to the National Christian Evangelical Alliance of Sri Lanka (NCEASL), up to August 2015, 58 incidents were recorded against Christians. Notably, incidents of persecution against Christians, especially the Evangelical Christian community, continued under the newly formed government by President Maithripala Sirisena. Moreover, during 2015, the NCEASL noted a rise in incidents of discrimination and intimidation perpetrated by local government authorities in comparison to 2014, where a majority of the incidents were led by organized, extremist Buddhist groups.

Also, the Secretariat for Muslims (SFM) reported that in 2014, 113 incidents of threats, attempts to attack, attacks, harassment, inciting, intimidation, and violence were recorded against Muslims.[9]

2. **Weak law enforcement response to FoRB violations**

In many instances of violence against religious minorities, action taken by the police is inadequate due to the pressure exerted by local Buddhist monks, local government officials and politicians. Christians have also been victims of arbitrary arrests based on false allegations. Police officers have also compelled Christian pastors to discontinue religious worship activities. Some incidents have also been documented where the police have refused to file cases against perpetrators who have led violent attacks against Christian pastors and churches.

Recommendations

a) **Take swift action to the full extent of the law, including sections 290-292 of the Penal Code against religiously motivated acts of violence or attempts to incite hatred towards any particular minority community, including disciplinary action against state officials and public servants who commit acts of discrimination or fail to perform their duty in a fair and impartial manner.**

3. **Registration of Religious Places of Worship and the Official Recognition of Religious Minorities**

[7] NCEASL Incident Reports, accessed via, https://slchurchattacks.crowdmap.com
[8] Ibid
[9] Hate incidents against Muslims, January – December 2014, Secretariat for Muslims (SFM)

Sri Lankan legislation does not require the registration of religious places of worship or any religious body. However, a Circular dated October 2008 was issued by the Ministry of Buddha Sasana and Religious Affairs demanding that all "new constructions" of places of worship should obtain approval from the said Ministry.

Following to the issuance of Circular 2008, Evangelical Christian churches have faced routine harassment, including forced closures by local government authorities who claim such places of worship as not 'recognized' or 'registered' with the government. Refusal of 'recognition' by the state has deprived thousands of Christian citizens of their fundamental rights, including the freedom of thought, conscience and religion.

Since January 2015, however, a significant change in the political climate has taken place in Sri Lanka. With the election of President Maithripala Sirisena, a Christian Affairs Ministry was introduced by the new government along with the appointment of a Coordinator to look into the grievances of the Evangelical Christian community.

However, subsequent to the completion of the Parliamentary General Election held on 17th August 2015, it is yet to be made clear whether the Christian Affairs Ministry and the office of the Evangelical Coordinator would continue to remain as permanent establishments of the state.

Recommendations

b) **The Ministry of Buddhasasana and Religious Affairs should withdraw the Circular issued in 2008 pertaining to the construction of places of worship.**

c) **The government should appoint a permanent office for an Evangelical Coordinator to look into the grievances of the Evangelical Christian community.**

d) **A Christian Affairs Ministry should be permanently set up by the government to represent the rights of Christians.**

e) **The government should not discriminate against certain religious minorities and impede their legitimate exercise of religious freedom by not according them equal recognition.**

ENSURING AN INTERNATIONAL INVESTIGATION INTO THE ISSUE OF ACCOUNTABILITY DURING THE LAST STAGES OF THE WAR

In 2011, the Report of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka found credible allegations on issues of accountability during the last stages of the civil war.[10] In 2013, then UN High Commissioner for Human Rights, Navanethem Pillay, called for an international investigation into alleged atrocities carried out in the final stages of the Sri Lankan civil war.

In 2014, a United States sponsored UN Human Rights Council (UN HRC) Resolution was passed on promoting reconciliation, accountability and human rights in Sri Lanka.[11] However, recently, a senior US official announced that the US will sponsor a resolution on Sri Lanka during the upcoming UN HRC session backing the government of Sri Lanka's plans for reconciliation and to conduct a local investigation on issues of accountability during the final stages of the armed conflict.[12]

[10]Report of the UNSG's panel of experts on accountability in SL, The Island, April 15, 2011, accessed via, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=23146

[11] Promoting reconciliation, accountability and human rights in Sri Lanka, A/HRC/25/1

[12] U.S. to Support Sri Lanka Plan to Investigate War Crimes, New York Times, August 26, 2015, accessed via, http://goo.gl/mZx5v2

The failure of the state to effectively address issues of accountability, 6 years following the end of the armed conflict in Sri Lanka demonstrates a lack of political will to hold accountable those responsible. As such, there are questions concerning the credibility of such an inquiry and the potential of a domestic investigation carried out by the government to provide meaningful accountability and effectively deliver justice to victims of Sri Lanka's civil war.

Recommendations

a) **The government should support an international inquiry that investigates issues of accountability during the final stages of the war and hold accountable those responsible**